

PATENT COOPERATION TREATY

REC'D 23 FEB 2005

WIPO


PCT

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference somi/PS03A16	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/IT2004/000197	International filing date (day/month/year) 09.04.2004	Priority date (day/month/year) 18.04.2003	
International Patent Classification (IPC) or national classification and IPC F24C3/08, F23D14/06, F24C3/02			
Applicant SO.M.I.PRESS-SOCIETA'METALLI INIETTATI S.P.A.et al			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 10.11.2004		Date of completion of this report 21.02.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Merk, A Telephone No. +49 89 2399-2935	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IT2004/000197

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-3 as originally filed
2a, 3a, 3b received on 12.11.2004 with letter of 10.11.2004

Claims, Numbers

1 received on 12.11.2004 with letter of 10.11.2004

Drawings, Sheets

1/2 as originally filed
2/2 received on 12.11.2004 with letter of 10.11.2004

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☒ the description, pages 3a,3b
 - ☒ the claims, Nos. 1
 - ☒ the drawings, sheets/figs 2/2
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
- * If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IT2004/000197

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1
Industrial applicability (IA)	Yes: Claims	1
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item I

The amendments filed with the letter dated 10.11.2004 introduce subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT. The amendments concerned are the introduction of the conditions of r.i.b to r.e.cr. and r.e.cr. to r.e.ca..

Therefore, the originally filed claim has been reexamined in the following:

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 1 The following documents are referred to in this communication:

D1 : EP 0 797 048 A (SABAF SPA) 24 September 1997 (1997-09-24)
D2 : EP 0 903 538 A (SABAF SPA) 24 March 1999 (1999-03-24)

2 **INDEPENDENT CLAIM 1**

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D1 discloses (see especially figure 6 and 13) a gas cooker burner of the type comprising a hollow body (2) with an internal chamber (9), whose bottom wall features a gas injector (5), with a disk with a large annular crown centred and positioned in raised position on the border, provided with a dense series of deep radial notches alternated with shallower radial notches and covered by a circular cap (29) with protruding border, wherein the lower border is situated near the crown immediately above the section from which an air-gas mixture comes out and goes through the notches of the crown, which is provided with an external annular groove along the edge of the upper border and is fed by the air-gas mixture that goes through the shallower notches.

Your argumentation with the letter of 10.11.2004 cannot be followed: The present (valid) original claim only contains technical features which are completely

anticipated by the available prior art documents. The intended effects of functions which should be reached by the claimed burner are not subject-matter of the presented claim and therefore, they shouldn't be considered for deciding over novelty or inventive step.

Indeed, the geometrical conditions (which are excluded from the examination process, see Item I.) would be a possibility to direct the burner to be able to achieve the aimed effects by real technical features. Unfortunately, this should have been done with your first filing.

- 2.2 Furthermore, document D2 and D4 represent further novelty-destroying documents in the sense of Article 33(2) PCT.
- 3 The industrial applicability of the invention is obvious.